



FAIRFAX COUNTY
PUBLIC SCHOOLS

Department of Financial Services

Office of Procurement Services
8115 Gatehouse Road, Suite 4400
Falls Church, Virginia 22042-1203
Telephone: 571-423-3550

Tess Frazier
Blackboard, Inc.
650 Massachusetts Avenue
Washington, D.C. 20001-3796

MAR 09 2011

Reference: RFP11-183360-69; Learning Content Management System and Related Service and Support

Dear Ms Frazier:

Acceptance Agreement

Contract Number: RQ11-183360-69A

This acceptance agreement signifies a contract award to Blackboard, Inc. for Learning Content Management System and Related Service and Support. The period of the contract shall be from July 1, 2011 through June 30, 2015.

The contract award shall be in accordance with:

1. This Acceptance Agreement;
2. The Terms and Conditions of RFP11-183360-69, Learning Content Management System and Related Service and Support, and any addenda;
3. Your Proposal dated October 6, 2011;
4. The signed Memorandum of Negotiations.

Please note that this is not an order to proceed. A purchase order, which constitutes your notice to proceed, will be issued to your firm. Please provide your Insurance Certificate according to Special Provisions Paragraph 21 within ten (10) days after receipt of this letter.

Sincerely,

Ron Hull, CPPO, VCO
Acting Director

RAH/rhs

BAH
3/10/11



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PUBLIC SCHOOLS**

Department of Financial Services

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**MEMORANDUM OF NEGOTIATION - REVISED
RFP11-183360-69**

LEARNING CONTENT MANAGEMENT SYSTEM AND RELATED SERVICE AND SUPPORT

Fairfax County Public Schools (hereinafter called FCPS) and Blackboard, Inc. (hereinafter called the Contractor) hereby agree to the following in the execution of Contract RQ11-183360-69A (hereinafter called the Contract) for the provision of a learning content management system and related service and support as specified in RFP11-183360-69. The Contract contains the following items:

1. County's Request for Proposal, RFP11-183360-69 and all Addenda and Attachments.
2. Contractor's Technical and Business Proposals as amended by this Memorandum of Negotiation
3. Contractor's response to clarification letter of November 3, 2010
4. Contractor's response to clarification and negotiation points letter dated November 17, 2010
5. Contractor's response to negotiation follow-up items dated December 10, 2010 and email of December 20, 2010
6. Contractor's response to negotiation follow-up letter of December 22, 2010
7. Contractor's response to negotiation follow-up letter of January 19, 2011
8. Contractor's response to negotiation follow-up letter of January 31, 2011
9. Contractor's response to negotiation follow-up letter of February 4, 2011
10. Contractor's response to negotiation follow-up letter of February 7, 2011
11. Contractor's response to negotiation follow-up letter of February 10, 2011
12. Contractor's response to negotiation email of February 21, 2011
13. Contractor's email dated March 1, 2011
14. Contractor's software customizations created under contract RQ02-589197-16A; Course Management System and as amended in the Statements of Work between FCPS and Contractor and referred to as Integration and Customization Maintenance (ICM) and dated as follows:
 - a. Custom Reporting – March 24, 2006
 - b. PS Non-Standard ICM SOW – November 15, 2006
 - c. Pass-through SOW – November 17, 2006
 - d. Aspire to e-Cart Search DVLP – March 30, 2007
 - e. PS Naviance COFC SOW – September 18, 2007
 - f. Aspire to e-Cart Search SSO – March 15, 2008
 - g. PS Parent View Enhancement – June 5, 2008
 - h. e-Cart Resource Link Replacement Tool – June 11, 2010
15. Contractor's Licenses and Service Agreements as amended on March 2, 2011:
 - a. Blackboard Master Terms

**Memorandum of Negotiations
RQ11-183360-69A
Page 2**

- b. Blackboard Learn Software Schedule
 - c. Blackboard Learn Developer's Network Schedule
 - d. Blackboard Managed Hosting Schedule
 - e. Exhibit A – Managed Hosting Specifications
 - f. Exhibit B – Managed Hosting Services Specifications
 - g. Exhibit B-1 Managed Hosting Enhanced SLA
 - h. Blackboard Training Services Schedule
 - i. Blackboard Materials License Schedule
 - j. Blackboard Course Materials Schedule
 - k. Blackboard Managed Contact Center Solution Schedule
 - l. Exhibit A – Specifications for Managed Contact Center Solution
 - m. Blackboard Professional Services Agreement
 - n. SafeAssign Terms of Use
16. This Memorandum of Negotiation
17. Any subsequent amendments to the Contract

The following provisions were negotiated and are incorporated into the Contract:

1. Contractor accepts Special Provisions, Paragraph 29, entitled Project Audits
2. Contractor's Cost Proposal as revised.
3. The Software Escrow fee is a pass-through of the DSI Technology Escrow Service, Inc., an Iron Mountain Escrow Services, Inc. company, Account Number 0102045-0001 as Additional Beneficiary Safe fee which is currently \$60.00.
4. The 5 year fixed pricing for software, hosting and services shall be for an unlimited users license covering only FCPS students, parents, teachers, and administrators.
5. The Service Level Agreement of 99.9% for downtime of Hosted Software is accepted.
6. FCPS Confidentiality Agreement as amended (Reference Attachment 1).
7. Special Provisions, Paragraph 24.1, entitled Payments as revised and mutually agreed on:

The County will pay the Contractor for task or project based deliverables upon acceptance by the County of the task or performance criterion identified in the Special Provisions, Tasks To Be Performed, the contracted tasks to be performed, pursuant to an approved Statement of Work under the provisions of the Professional Services Agreement, or an amendment to the contract. All other products and services, such as the Blackboard Software, Blackboard managed Hosting, Blackboard Training, and Blackboard Managed Contact Center fees shall be paid upon receipt of an invoice. Payments shall be made within 30 days of receipt of a properly completed invoice containing a clear description of the product, service and/or deliverable(s) and contains the correct purchase order number.

8. Addendum to All Blackboard – FCPS Documents as revised (Attachment 2).
9. Blackboard Managed Hosting Security and Testing Rules and Procedures as revised (Attachment 3).
10. Contractor agrees to remove the SafeAssign Terms of Use by providing a custom version of SafeAssign Building Block at an Integration and Customization Maintenance (ICM) fee of \$5,000 annually that removes the following language and link from the Upload SafeAssignment page:

" By submitting this paper, you agree (1) to the Terms of Use SafeAssign Terms of Use; (2) that your institution may use your paper in accordance with your institution's policies; and (3) that your use of SafeAssign will be without recourse against Blackboard, Inc. and its affiliates".

11. SafeAssign Terms of Use (TOU), Paragraph 9, as revised and mutually agreed upon:

"To the extent permitted by law, you agree to indemnify and hold Blackboard, its affiliates, officers, agents, partners and employees, harmless from any claim or demand, including reasonable attorney's fees, made by a third party due to or arising out of User Content you or your end-users submit, post to, email, or otherwise transmit through the Services, your or your end-users use of the Services, your connection to the Services, or you or your end-users breach of the TOU".

12. Customizations are a Firm Fixed Price, based on costs by labor category:

<u>Category</u>	<u>Hourly Rate</u>
Consultant/ Sr. Consultant	\$160
Manager/ Sr. Manager	\$225
Director/ Sr. Director	\$245
Vice President	\$345

13. Contractor agrees to share information with FCPS regarding the project plan for a server-side installation of an anti-virus solution in a Blackboard 8.0 environment, provided FCPS acknowledges that such plans represent internal guidelines, and may - based on the information gathered at any point in the process - change. Blackboard agrees to keep FCPS informed about the progress of the project on a regular basis.
14. Contractor commits to a timeline of thirty (30) days from award for research with vendors in prototyping a commercial anti-virus solution for Blackboard Learn 8.0.
15. Integration of commercial/ open source virus protection using Xythos Plug-in Architecture for Blackboard Learn 9.1 migration and the prototyping of the integration of server-side implementation of commercial anti-virus solution for Blackboard Learn 8.0 shall be performed at no cost to FCPS with the exception of the cost of any commercial anti-virus software.
16. Integration and Customization Maintenance (ICM) costs of \$ 6,000 annually for anti-virus solution customizations upon migration to Blackboard Learn 9.1.
17. Managed Call Center Strict Service Level Management as revised (Attachment 4).
18. Managed Call Center related support services in Blackboard's Exhibit A - Specifications for Managed Contact Center Solution include e-Survey which allows end users to automatically receive a custom survey after each support experience; gauges user satisfaction with real-time survey results; and ensures survey data quality by preventing re-submits.
19. Contractor's proprietary information which will not be posted.
20. Statements of Work amending contract RQ02-589197-16A, Course Management System, as listed above, are carried through and incorporated by reference.

21. Blackboard License and Services Agreement Cover Page and Blackboard Professional Services Agreement are amended to reference the incorporation of the Statements of Work amending contract RQ02-589197-16A; Course Management System.
22. Monthly hosting fees for credit calculation include: A. Production environment; B. Business Continuity service; C. Staging environment. FCPS acknowledges and accepts that the Service Level Agreement (SLA) associated with the Business Continuity (BC) service is distinct from the SLA for the Production and staging environments.
 1. Production and staging are based off a monthly uptime SLA of 99.9% with a service credit of any level below 99.9%.
 2. Business Continuity has SLAs based off Recovery Point Objectives (RPO) and Recovery Time Objectives (RTO). If a BC event is declared, the RTO (24 hours) and the RPO (12 hours) must be met or a credit is applied if the Production environment is not returned. Once the BC environment is considered Production (with primary Production lost due to some catastrophic event), it will fall under the Production level SLA (of 99.9%) with the appropriate service credits for missed monthly SLA. Until such time, that environment is not considered production but will be subject to a 99.9% monthly uptime SLA in its capacity as the primary FCPS staging environment.

ACCEPTED BY:


Tess Frazier
Blackboard, Inc. - Vice President of Contracts


Ron Hull, CPPO, VCO
FCPS - Acting Director of Procurement Services

3/7/11
Date

3/9/11
Date

ATTACHMENT 1

ADDENDUM

THIS ADDENDUM, executed and effective as of the 1 day of JULY 2011, 2010, by and between Blackboard, Inc., a corporation organized and existing under the laws of Virginia and the FAIRFAX COUNTY SCHOOL BOARD, a public body corporate and politic organized and existing under the laws of the Commonwealth of Virginia (the "School Board"), recites and provides as follows.

Recitals

The Company and the School Board are parties to a certain agreement entitled "RQ11-183360-69A" of even date herewith (the "Agreement"). In connection with the execution and delivery of the Agreement, the parties wish to enter into this Addendum in order to clarify and make certain modifications to the terms and conditions set forth therein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged hereby, the parties agree as follows.

Agreement

The Agreement is amended hereby as follows:

1. The following provisions shall be deemed to be included in the Agreement:

Confidentiality Obligations. The Company hereby covenants and agrees that it shall maintain, in strict confidence and trust, all FCPS records of any kind, whether provided by or created for FCPS pursuant to this contract. "FCPS records" includes but is not limited to all records, reports, documents, and materials of any nature pertaining to FCPS, its operations, students, employees, and their families. The Company shall cause each officer, director, employee and other representative who shall have access to the FCPS records during the term of the Agreement (collectively, the "Authorized Representatives") to maintain in strict confidence and trust all FCPS records. The Company shall take all reasonable steps to insure that no FCPS records are disclosed to any person or entity except those who (i) are Authorized Representatives of the Company and have agreed to be bound by the terms of this Agreement or a Confidentiality Covenant (as defined below) executed pursuant hereto; (ii) are authorized representatives of FCPS, or (iii) are entitled to such FCPS records from the Company pursuant to federal and/or Virginia law. The Company shall use the FCPS records, and shall take all reasonable steps necessary to ensure that its Authorized Representatives shall use the FCPS records, solely for purposes related to and in fulfillment of the performance by the Company of its obligations pursuant to the Agreement. The Company shall: (i) designate one of its Authorized Representatives to be responsible for ensuring that the Company and its Authorized Representatives maintain the FCPS records as confidential; (ii) train the other Authorized Representatives with regard to their confidentiality

ATTACHMENT 1

responsibilities hereunder and pursuant to federal and Virginia law; (iii) maintain at all times a list of Authorized Representatives with access to FCPS records; (iv) cause each Authorized Representative to execute a written covenant of confidentiality in substantially the form set forth on Exhibit A hereto (the "Confidentiality Covenant") prior to his or her performance of any services contemplated by the Agreement and shall deliver any and all such Confidentiality Covenants to the School Board upon request. Upon expiration of the term of the Agreement, or upon the earlier termination of the Agreement for any reason, the Company covenants and agrees that it promptly shall deliver to the School Board, and shall take all reasonable steps necessary to cause each of its Authorized Representatives promptly to deliver to the School Board, all FCPS records. The Company hereby acknowledges and agrees that, solely for purposes of receiving access to FCPS records and of fulfilling its obligations pursuant to this provision and for no other purpose (including without limitation, entitlement to compensation and other employee benefits), the Company and its Authorized Representatives shall be deemed to be school officials of the School Board, and shall maintain FCPS records in accordance with all federal state and local laws, rules and regulations regarding the confidentiality of such records. The non-disclosure obligations of the Company and its Authorized Representatives regarding the information contained in FCPS records shall survive termination of the Agreement. The Company shall indemnify and hold harmless the School Board from and against any loss, claim, cost (including attorneys' fees) or damage of any nature arising from or in connection with the breach by the Company or any of its officers, directors, employees, agents or representatives of the obligations of the Company or its Authorized Representatives under this provision or under a Confidentiality Covenant, as the case may be.

Other Security Requirements

The Company shall maintain technologies, policies, procedures and practices necessary to secure and protect the confidentiality and integrity of FCPS records in accordance with applicable laws. These shall include procedures to:

- (i) Restrict access to FCPS records as described in the "Confidentiality" provision of this Addendum;
- (ii) Establish user ID's and passwords as necessary to protect FCPS records;
- (iii) Protect all such user passwords from detection and unauthorized use;
- (iv) Prevent hostile or unauthorized intrusion that could compromise confidentiality, result in data corruption, or deny service;
- (v) Minimize system downtime;
- (vi) In the event of system failure, enable immediate recovery of FCPS Records to the previous business day;

ATTACHMENT 1

- (vii) Where applicable notify FCPS of planned system changes that materially reduce the security of FCPS records;
- (viii) Destroy FCPS records that exceed specified retention schedules or, upon client request, return such records;
- (ix) Permit periodic external security audits by FCPS or a mutually-agreed third party using applicable regulations and industry best practice standards as benchmarks, and make commercially reasonable efforts to remediate the vulnerabilities discovered. Audits will be scheduled with Blackboard and must be approved prior to execution. External scans must adhere to the Blackboard Managed Hosting Security Testing Rules and Procedures.
- (x) In the event of a security breach affecting FCPS records, use reasonable efforts to:
 - a. Immediately take action to remediate the breach;
 - b. Notify FCPS of Company's first knowledge of the breach, and provide, to the extent known at that time, the reasons for or cause of the breach, actions taken to close the breach, and identify the FCPS Records compromised by the breach;
 - c. Securely return compromised FCPS Records for review upon client request;
 - d. Provide communications on the breach to be shared with affected parties and cooperate with FCPS efforts to communicate to affected parties by providing FCPS with prior review of press releases and any communications to be sent to affected parties
 - e. "Mutually agreed messages and public information will be provided to the Blackboard, Inc. sub-contracted support desk agency supporting Fairfax County Public Schools for response to questions as a central user point of contact. Any such incident will be tracked as a separate support request category. If the volume of calls related to such an incident(s) result in FCPS exceeding their annual contracted contact ceiling with Blackboard's subcontracted support desk service, Blackboard, Inc. will negotiate with FCPS to agree an appropriate offset credit, not to exceed the documented number of support desk contacts assigned to the security incident category."
 - f. Cooperate with FCPS by providing information and records needed to respond to any government investigation into the disclosure of such records or litigation concerning the breach;
 - g. Provide FCPS with prompt notice of any lawsuits resulting from, or government investigations of, the Company's handling of FCPS records, failure to follow security requirements and/or failure to safeguard confidential information.

The Company shall provide client facing documentation of the security standards applied to meet the security requirements of this provision prior to performing services under the Agreement upon request. Notwithstanding the foregoing sentences of this paragraph, the Company shall not be required to reveal any proprietary schemes or security information which could compromise the security of the Company's systems.

ATTACHMENT 1

Certain Representations and Warranties. The Company hereby represents and warrants as follows: (i) the Company has full power and authority to execute the Agreement and this Addendum and to perform its obligations hereunder and thereunder; (ii) the Agreement and this Addendum constitute the valid and binding obligations of the Company, enforceable in accordance with their respective terms, except as such enforceability may be limited by bankruptcy or similar laws affecting the rights of creditors and general principles of equity; and (iii) the Company's execution and delivery of the Agreement and this Addendum and compliance with their respective terms will not violate or constitute a default under, or require the consent of any third party to, any agreement or court order to which the Company is a party or by which it may be bound.

Governing Law: Venue. Notwithstanding any provision contained in the Agreement to the contrary, (i) the Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without reference to conflict of laws principles; and (ii) any dispute hereunder which is not otherwise resolved by the parties hereto shall be decided by a court of competent jurisdiction located in the Commonwealth of Virginia.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed by their duly authorized officers effective as of the date first written above.

[COMPANY NAME]

By: 

[Name] Tess Frazier
[Title] VP - Contracts

FAIRFAX COUNTY SCHOOL BOARD

By: 

[Name] Ron Hall
[Title] Acting Director, OPS

ATTACHMENT 1

Exhibit A

Covenant of Confidentiality

In connection with the performance by Blackboard, Inc. of its obligations under that certain agreement with the Fairfax County School Board dated July 1, 2010, as the same shall have been amended by that certain Addendum of even date therewith (the "Agreement"), the undersigned authorized representative of the Company (the "Authorized Representative"), for good and valuable consideration, the receipt and sufficiency of which is acknowledged, hereby covenants and agrees as follows, with knowledge that the Fairfax County School Board is relying upon the statements set forth herein.

The Authorized Representative hereby covenants and agrees that he or she: (i) shall maintain in strict confidence and trust all records, reports and other documents or materials of any nature relating to the operations, students, families and employees of Fairfax County Public Schools (collectively, the "FCPS records"); (ii) shall not disclose any FCPS records to any person or entity who has not agreed to be bound by the terms of the Agreement, or a sworn statement executed pursuant thereto, unless the person or entity is an Authorized Representative of FCPS or is otherwise entitled to access to such FCPS records pursuant to federal and/or Virginia law; (iii) shall use the FCPS records solely for purposes related to and in furtherance of the performance by the Company of its obligations pursuant to the Agreement; (iv), upon expiration of the term of the Agreement, or upon the earlier termination of the Agreement for any reason, promptly shall deliver all FCPS records to Fairfax County Public Schools; (v) shall continue to maintain as confidential all information obtained from FCPS Records after the expiration or termination of the Agreement.

IN WITNESS WHEREOF, the Authorized Representative has executed this Covenant of Confidentiality as of the 7 day of March, 2011.

[Name]

650 Massachusetts Ave, NW 6th floor

[Address]

Washington DC 20001

(202) 463-4860

[Telephone No.]

ATTACHMENT 2

ADDENDUM

to All Blackboard/FCPS Documents

RFP11-183380-89

This Addendum dated as the date of award of Fairfax County Public Schools Contract RQ11-183380-89, by and between Blackboard, Inc., a Delaware corporation, ("Blackboard") and Fairfax County School Board which operates the Fairfax County Public Schools, a body corporate organized pursuant to the laws of the Commonwealth of Virginia ("Customer" or "FCPS") hereby amends the following: Blackboard Master Terms, Software Schedule – Blackboard Learn Software Schedule, Blackboard Managed Hosting Schedule, Exhibit A – Managed Hosting Specifications, Exhibit B – Managed Hosting Services Specifications, Exhibit B-1 – Managed Hosting Enhanced SLA, Blackboard Training Services Schedule, Blackboard Materials License Schedule, Blackboard Course Materials Schedule, Blackboard Managed Contract Center Solution Schedule, Exhibit A – Specifications for Managed Contract Center Solution, SafeAssign Terms of Use, and Blackboard Services Agreement (collectively, the "Blackboard Documents"), as follows:

A. Notwithstanding any text contained in the original, preprinted Blackboard Documents to the contrary, each of the Blackboard Documents is hereby amended to delete the original text and to read as follows (unless otherwise noted):

1. Date. The execution date of the Blackboard Documents shall be as of date of award of FCPS contract RQ11-183380-89.
2. Effective Date. The effective date of the Blackboard Documents and the beginning of the Term shall be July 1, 2011, coinciding with the beginning of Customer's fiscal year.
3. Order of Precedence. In the event a conflict arises between any of the Contract Documents (consisting of the FCPS Documents and the Blackboard

ATTACHMENT 2

Documents), the following order of precedence is established: the Acceptance Agreement, and Memorandum of Negotiations (including incorporated attachments), Special Provisions of RFP11-183360-69 and all attachments and addenda, Blackboard Documents and Proposal, and the General Terms and Instructions to Bidder contained in RFP11-183360-69.

4. Confidential Information. As to Blackboard's Confidential Information, the following shall apply.

The parties hereto acknowledge and agree: (a) that FCPS is a "public body" within the meaning of the Virginia Freedom of Information Act (Va. Code Ann. §§ 2.2-3700, et seq.) (the "Act") and that public records in the possession of FCPS are subject to disclosure pursuant to the Act, unless exempted by law; and (b) in the event that Blackboard seeks confidential treatment for any Blackboard record (containing trade secrets or proprietary information) it wishes to deliver or to transmit to FCPS in the future, Blackboard shall both (i) comply fully with the terms of Va. Code Ann. § 2.2-4342 (F), a copy of which is attached hereto as Exhibit A, and (ii) conspicuously label all such records as "Confidential - Exempt from Disclosure;" and (c) provided Blackboard fulfills the foregoing obligations, FCPS shall not disclose such records, absent a court order to the contrary. In the event of conflict between the terms of this Section and any other provision of the Contract Documents, this Section shall govern.

5. Fees; Payments. Any fee or amount charged by Blackboard hereunder shall not (i) be due until Customer accepts the work or service for which payment is sought and (ii) be past due until the 30th day after the date on which Customer receives an invoice which conforms to Customer's published requirements as set forth in RFP11-183360-69. Payments are subject to

ATTACHMENT 2

negotiated language included in the Memorandum of Negotiation. Blackboard expressly reserves the right to change the fees payable under any Schedule with respect to any renewal of such Schedule upon expiration of the current contract provided, Blackboard furnishes written notice to Customer of the intended change not less than 60 days prior to the first date on which renewal may be requested. Customer will pay all fees in US dollars. Payments shall be sent to the address listed on the invoice.

6. Late Fees. FCPS agrees to payment terms set forth in the Memorandum of Negotiations. FCPS does not accept late payment fees.
7. Taxes. Agrees to pay taxes as set forth in RFP11-183360-89 General Terms and Instructions to Bidders.
8. Expenses. Blackboard shall not be entitled to payment of expenses in connection with a Customer audit where Customer initiates the audit to assess Blackboard's compliance with the terms of the Contract Documents, following notice and an opportunity of Blackboard to respond in writing to Customer's concerns.
9. Governing Law. The Contract Documents shall be governed in all respects by the laws of the Commonwealth of Virginia without giving effect to principles of conflict of laws. The parties irrevocably and unconditionally submit to the courts of the Commonwealth of Virginia or the United States District Court for the Eastern District of Virginia for the purpose of any suit arising out of the Contract Documents or the subject matter hereof.
10. No Assignment. Neither the Contract Documents, nor any of the rights or obligations set forth therein, shall be assignable by either party without the prior written approval of the other, which approval may be withheld in such party's sole discretion.

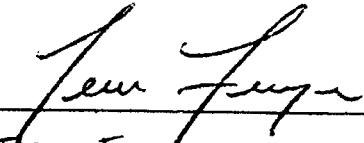
ATTACHMENT 2

11. Employment. No provision of the Contract Documents shall restrict or prohibit Customer from furnishing public notice of employment opportunities and from hiring individuals who respond to such notice, regardless of the current or prior employment of such individuals.
12. Entire Agreement. RFP11-183360-69, all RFP addenda, the Acceptance Agreement, and Memorandum of Negotiations (including incorporated attachments) and Blackboard Documents constitute the complete and exclusive contract between the parties and supersedes any and all prior or contemporaneous oral or written communications or proposals not expressly included herein. No modification or amendment of this contract shall be valid unless in a writing by a duly authorized representative of Blackboard and a duly authorized representative of Customer.
13. Reimbursement of Blackboard for Travel Expenses. To the extent Blackboard is authorized to obtain reimbursement from Customer for travel/living expenses of Blackboard employees/subcontractors, such expenses shall be in compliance with GSA per diem rate found on the GSA website, www.gsa.gov.
14. Prices Applicable to FCPS. Blackboard agrees that the prices charged to FCPS from time to time pursuant to the Contract Documents shall be comparable to those charged for the same items or services to similarly situated K-12 public school divisions located in the United States.

IN WITNESS WHEREOF, the parties have caused this Addendum to be executed by their authorized officers as of the date of award of FCPS contract RQ11-183360-69.

ATTACHMENT 2

BLACKBOARD, INC.

By: 
Name: Tess Frasier
Title: VP Contracts
Dated: 3/7/11

FAIRFAX COUNTY SCHOOL BOARD

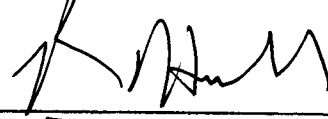
By: 
Name: Ron Hull
Title: Acting Director, OPS
Dated: 3/9/11

Exhibit A

(Blackboard/FCPS Addendum)

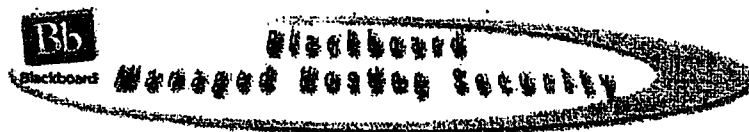
RFP11-183380-69

ATTACHMENT 2

Va. Code Ann. § 2.2-4342 (F)

F. Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction or prequalification application submitted pursuant to subsection B of § 2.2-4317 shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); however, the bidder, offeror or contractor shall (i) Invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.

ATTACHMENT 3



SECURITY TESTING RULES AND PROCEDURES

Purpose

The purpose of this document is to provide explicit instructions and guidelines on how to properly scan and test your Blackboard Hosted System.

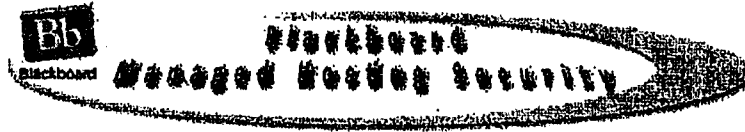
Rules of Engagement

- Blackboard must be contacted five (5) business days prior to scanning
- Blackboard must be given the specific source and destination IP address that will be involved in scanning
- Network Scanning is Strictly Prohibited
- Scans outside of the documented IP range are prohibited
- Blackboard recommends that initial scans and discovery of the system should be done in the Test and Development and/or Auxiliary Environments
- Blackboard is not liable for any actions or impact that may occur within or to the FCPS hosted environments during the period of 3rd party scans.
- Provide an estimated timeline. Scans can only occur during the hours of 12am-6am.
- A documented and detailed plan of action must be provided three (3) business days prior to scanning
- An acceptance/approval email must be sent to the client POC from the Blackboard Security Team before scans may begin
- Application scans must not be run with Administrator privileges

Actions

1. A documented and detailed plan of action must be provided three (3) business days prior to scanning
2. An acceptance/approval email must be sent to the client POC from the Blackboard Security Team before scans may begin
3. An email must be sent to blackboardsecurity@blackboard.com at least 30 minutes before the scan initialization and completion.
4. The Blackboard Security Team will send out internal notification that the scans are in progress

ATTACHMENT 3



Scan Details

Scan Date/Time (Estimated)

From: _____

To: _____

IP Address

Source: _____

Destination: _____

P.O.C (Points of Contact)

Name: _____

Email/Phone: _____

****Please attach you P.O.A (Plan of Action) and/or success criteria****

ATTACHMENT 4

Strict Service Level Management – Exhibit A Managed Call Center

Guaranteed Service Levels

Service Level Guarantee	Criteria for Performance Measurement	Basis of Performance Measurement
≥ 80%	Percentage of total telephonic contacts answered in three (3) minutes or less	Monthly
≥95%	Percentage of total contacts correctly handled by Service Desk Operations	Monthly
≥ 80%	Percentage of customer service surveys with overall ratings of Satisfied or Very Satisfied	Quarterly

Failure to Perform Against Guaranteed Service Levels

Failure to meet the contracted service level of 80% of calls answered in three minutes or less for the month will result in a 5% credit of the Service Desk Operations fees to Fairfax County Public Schools' next annual invoice.

In conjunction with monthly time to answer results, parties will jointly review and agree incidents deemed to be inappropriately escalated to FCPS. Each incident determined to have been incorrectly escalated that is in excess of 5% of the total calls received during the month will be added to the documented incidents outside of contracted time to answer service levels when computing the achievement of SLA.

If Presidium Learning exceeds contracted service levels for three consecutive months following the month for which a 5% credit of the Service Desk Operations fees to Fairfax County Public Schools applies, this shall result in an incentive credit of 5% to Presidium Learning for sustained performance. Such incentive credits to Presidium Learning will only be applied to offset existing FCPS credits. In no case shall credits result in any payment to Presidium Learning by FCPS beyond the annually contracted Service Desk Operations fees.

Customer satisfaction survey results will be reviewed quarterly. If more than 20% of survey responses' overall ratings are dissatisfied or very dissatisfied, a 5% credit of the quarterly Service Desk Operations fees will be applied to Fairfax County Public Schools' next annual invoice. At the end of the contract year, if overall survey ratings for the contract year meet or exceed 80% of responses with ratings of satisfied or very satisfied, up to one quarter of performance credit to FCPS will be waived. If no quarter of the contract year fell below 80% satisfied or very satisfied ratings, no credits will be returned to Presidium Learning.